



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 649

IN THE MATTER OF KENNETH WALLEY

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Kenneth Walley pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On September 16, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Walley. The Commission has concluded its inquiry and, on November 13, 2001, found reasonable cause to believe that Walley violated G.L. c. 268A, §§19 and 17.

The Commission and Walley now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. Walley is employed as a City of Revere assistant electrical inspector. As such, Walley is a municipal employee as that term is defined in G.L. c. 268A, §1.
2. Walley's official duties as an assistant electrical inspector include the issuing of permits for electrical work being done in the city and through inspections ensuring that all work performed pursuant to such permits complies with local codes.
3. Walley also performs private electrical work as Kenneth R. Walley Co., Inc.
4. In December 1999, Walley was hired to wire the basement and install an additional electric meter at the house at 26 Wave Avenue, Revere.
5. On January 14, 2000, Walley applied for a permit for this work.
6. In or about February 2000, Walley performed the work at 26 Wave Avenue.
7. On December 18, 2000, Walley, as assistant electrical inspector, inspected and approved the work he performed at 26 Wave Avenue.
8. Walley was paid \$200 for the work he did at 26 Wave Avenue.
9. In December 2000, Walley was hired to re-wire the house at 574 Proctor Avenue, Revere.
10. On December 8, 2000, Walley applied for a permit for this work.

11. On December 8, 2000, Walley performed the work at 574 Proctor Avenue.
12. On January 31, 2001, Walley, as assistant electrical inspector, inspected and approved the work he performed at 574 Proctor Avenue.
13. Walley was paid \$4,500 for the work he did at 574 Proctor Avenue.

Conclusions of Law

Chapter 268A, §17(c)

14. Section 17(c) of G.L. c. 268A prohibits a municipal employee, otherwise than in the proper discharge of official duties, from acting as agent or attorney for anyone other than the municipality in relation to a particular matter in which the town has a direct and substantial interest.
15. Decisions to issue electrical permits are particular matters.
16. The city has a direct and substantial interest in these matters because those permits involve activities that may significantly affect public health and safety.
17. By applying for electrical permits for work done at 26 Wave Avenue and 574 Proctor Avenue, Walley acted as agent for individuals other than the city (both his corporation and the owners of each site) in relation to particular matters in which the city had a direct and substantial interest.
18. Walley's actions in applying for permits were not within the proper discharge of his official duties.
19. Therefore, by applying for electrical permits for work done at 26 Wave Avenue and 574 Proctor Avenue, Walley acted as agent for individuals other than the city in relation to particular matters in which the city had a direct and substantial interest, and thereby violated §17(c) on each occasion.

Chapter 268A, §17(a)

20. Section 17 (a) of G.L. c. 268A prohibits municipal employees from otherwise than as provided by law for proper discharge of official duties directly or indirectly receiving or requesting compensation from anyone other than their city, town or municipal agency in relation to a particular matter in which the same city or town is a party or has a direct and substantial interest.
21. Walley received \$200 and \$4,500 for the electrical work he performed at 26 Wave Avenue and 574 Proctor Avenue, respectively.
22. The decisions to issue city permits for electrical work and the inspections pursuant to those permits are particular matters.
23. The compensation Walley received for performing the electrical work was in relation to particular matters in which the city had a direct and substantial interest.

24. Walley's receipt of compensation for work he performed privately was not within the proper discharge of his official duties.

25. Therefore, by receiving compensation in relation to particular matters in which the city had a direct and substantial interest, Walley violated §17(a) on each occasion.

Chapter 268A, §19

26. Section 19 of G.L. c. 268A prohibits municipal employees from participating in their official capacity in particular matters in which they know they have a financial interest.

27. The inspection of the electrical work at 26 Wave Avenue and 574 Proctor Avenue involves determinations as to whether the work done complied with the code. These determinations were particular matters.

28. By conducting these inspections, Walley participated, in his official capacity, in the aforementioned particular matters.

29. Walley had a financial interest in the particular matters as he had performed the electrical work at 26 Wave Avenue and 574 Proctor Avenue and received \$200 and \$4,500, respectively.

30. Walley knew of the aforementioned financial interests when he conducted the inspections.

31. Therefore, by conducting the inspections of the electrical work he performed at 26 Wave Avenue and 574 Proctor Avenue, Walley participated in particular matters in which he had a financial interest, thereby violating §19 on each occasion.

Resolution

In view of the foregoing violation of G.L. c. 268A by Walley, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Walley:

(1) that Walley pay to the Commission the sum of \$2,500.00 as a civil penalty for violating G.L. c. 268A, §§17(a), 17(c) and 19; and

(2) that Walley waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: November 29, 2001